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C O N F I D E N T I A L TUNIS 000112

SIPDIS

C O R R E C T E D C O P Y (PARA 1 & 2 CLASSIFICATION MARKINGS)

SENSITIVE
SIPDIS

NEA FOR GRAY AND HOPKINS
NSC FOR ABRAMS
E.O. 12958: DECL: 01/24/2017
TAGS: [PREL](#) [PGOV](#) [KMPI](#) [ASEC](#) [TS](#)
SUBJECT: TIMELINE ON EVENTS LEADING TO SENTENCING OF SENIOR
POLITICAL FSN

CLASSIFIED BY: AMBASSADOR ROBERT F. GODEC FOR REASONS 1.4 B & D

11. (C) ON JANUARY 24, POST'S SENIOR POLITICAL FSN JAMIL HALFAOUI WAS SENTENCED TO FOUR MONTHS IN PRISON ON A 2001 CHARGE OF DESTRUCTION OF PROPERTY, FOR WHICH HE HAD PREVIOUSLY BEEN FOUND NOT GUILTY. POST IS CONTINUING TO INVESTIGATE THIS MATTER AND IT APPEARS THE CASE MAY BE POLITICALLY MOTIVATED (SEPTEL). THE FOLLOWING IS A DETAILED TIMELINE OF EVENTS PERTAINING TO THE CRIMINAL CASE, AND A LISTING OF PROCEDURAL FLAWS, INDICATIONS OF THE POLITICAL MOTIVATION BEHIND THE CHARGE AND OTHER QUESTIONABLE ASPECTS OF THE CASE.

12. (C) TIMELINE OF EVENTS IN THE CASE OF JAMIL HALFAOUI,
SENIOR POLITICAL FSN, EMBASSY TUNIS:

FEB 19, 2001 -- IN HIS CAPACITY AS A VOLUNTARY MEMBER OF THE OWNERS' ASSOCIATION OF HIS THEN-APARTMENT COMPLEX IN THE TUNISIAN SUBURB OF EL-MANAR II, JAMIL HALFAOUI, TOGETHER WITH THE BUILDING GUARD, REMOVED IRON BARS BELONGING TO MOHAMMED YASSER JERANA, AN EGYPTIAN WHO WORKS AT THE ARAB RADIO STATION UNION AND WAS RENTING AN APARTMENT IN A NEIGHBORING BUILDING. THE BARS WERE REMOVED FOR TWO REASONS. FIRST, THE BARS WERE PLACED IN THE PARKING LOT THAT WAS RESERVED FOR THE TENANTS OF HALFAOUI'S BUILDING; THUS JERANA WAS NOT ENTITLED TO INSTALL THE IRON BARS THERE. SECOND, THE BARS WERE NOT STABLE AND POSED A SAFETY THREAT TO THE BUILDINGS RESIDENTS, AS HALFAOUI REPORTED TO THE EL MANAR POLICE ON FEB 20, 2001. HALFAOUI AND THE BUILDING GUARD REMOVED THE BARS, AND PUT THEM IN THE RESERVED AREA OF THE PARKING LOT OF THE NEIGHBORING BUILDING, WHERE MR. JERANA WAS LIVING.

MAY 22, 2002 -- TUNIS COURT OF FIRST INSTANCE SENTENCED HALFAOUI IN ABSENTIA TO FOUR MONTHS OF IMPRISONMENT FOR THE INTENTIONAL DESTRUCTION OF ANOTHER'S PROPERTY.

JULY 18, 2002 -- HALFAOUI WAS INFORMED OF THE ABOVE SENTENCE. HE WAS GIVEN 10 DAYS TO "OPPOSE" THE SENTENCE BEFORE THE SAME COURT. HE DID SO WITHIN THE ALLOTTED TIME PERIOD, AND WAS DECLARED NOT QY.

NOV 30, 2006 -- HALFAOUI WAS INFORMED THAT THE TUNIS COURT OF APPEAL HAD SENTENCED HIM TO FOUR MONTHS OF IMPRISONMENT IN ABSENTIA, ON FEB. 19, 2003. HE WAS GIVEN 10 DAYS TO APPEAL. HE APPEALED WITHIN THE ALLOTTED TIME.

JAN 6, 2007 -- THE APPEAL TRIAL TOOK PLACE.

JAN 24, 2007 -- THE VERDICT WAS ANNOUNCED: FOUR MONTHS IMPRISONMENT. INITIALLY, HALFAOUI'S LAWYER WAS INFORMED THAT THE SENTENCE WAS WITH IMMEDIATE IMPLEMENTATION.

JAN 25, 2007 -- HALFAOUI'S LAWYER WAS INFORMED THAT AN "IMMEDIATE IMPLEMENTATION" CLAUSE HAD NOT IN FACT BEEN RECORDED IN CONNECTION WITH THIS CASE.

JAN 25, 2007 -- HALFAOUI'S LAWYER FILED REQUEST BEFORE THE COURT OF CASSATION TO OVERTURN THE COURT OF APPEAL DECISION.

JAN 25, 2007 -- HALFAOUI IS CONTACTED BY JAOUIDA GUIGA, CHAMBER PRESIDENT AT THE COURT OF CASSATION, WHO ASKS HIM TO CALL HER ON A DIFFERENT PHONE FROM HIS NORMAL CELL PHONE, AND TELLS HIM THAT SHE HAS BEEN TOLD THE CASE WAS ADVANCED BY THE EGYPTIAN EMBASSY, ON BEHALF OF MR. JERANA. GUIGA REPORTED THAT THE EGYPTIAN AMBASSADOR SOUGHT ASSISTANCE FROM THE MINISTER OF JUSTICE TO MOVE THE CASE AGAINST HALFAOUI FORWARD. SUBSEQUENTLY, AMBASSADOR SPOKE WITH THE EGYPTIAN AMBASSADOR WHO DENIED ANY INVOLVEMENT, BUT SAID THAT SHE WOULD CHECK WITH HER CONSULAR STAFF. HALFAOUI, IN TURN, CONTACTED JERANA, STILL LIVING IN TUNIS, WHO SAID HE HAD HAD NO INVOLVEMENT IN THE CASE SINCE 2001, WHEN HE ASKED THE EGYPTIAN EMBASSY TO HANDLE IT. HE APOLOGIZED TO HALFAOUI THAT THE CASE WAS STILL ACTIVE AND THAT A VERDICT OF IMPRISONMENT HAD BEEN LEVIED. JERANA SAID HE WOULD GLADLY SIGN A DOCUMENT WITHDRAWING HIS COMPLAINT AGAINST HALFAOUI. FINALLY, CONSUL CALLED EGYPTIAN CONSUL, WHO VERIFIED THAT HE HAD NOT INTERVENED ON BEHALF OF JERANA TO PURSUE THE CASE. THE EGYPTIAN CONSUL SAID THAT THE EGYPTIAN AMBASSADOR HAD CONTACTED HIM FOLLOWING AMBASSADOR'S CALL AND WANTED HIM TO DO WHATEVER NECESSARY TO SEE THE MATTER RESOLVED.

13. (SBU) PROCEDURAL FLAW:

-- TRIALS IN ABSENTIA: HALFAOUI WAS TWICE TRIED IN ABSENTIA,

DESPITE THE FACT THAT HIS WHEREABOUTS HAVE BEEN WELL-KNOWN. INDEED, THERE WAS NO QUESTION OF HIS WHEREABOUTS WHEN IT CAME TIME TO INFORM HIM OF THE VERDICTS, WHICH WERE DELIVERED TO HIS RESIDENCE.

14. (C) INDICATIONS OF POLITICAL MOTIVATION
AND OTHER QUESTIONABLE ASPECTS:

-- MOTIVATION OF JUDGE: HALFAOUI SAID THAT UPON NOTIFICATION ON NOVEMBER 30 OF THE APPELATE COURT JUDGMENT, HE ASKED A FRIEND AND JUDGE, HABIB GHARIANI (PROTECT) TO SPEAK WITH THE PRESIDING JUDGE BEN JAAFAR ABOUT THE CASE. GHARIANI SAID THAT HE DID NOT PERSONALLY KNOW BEN JAAFAR, BUT THAT HE KNEW HIS SENIOR ASSISTANT. SUBSEQUENTLY, GHARIANI CALLED HALFAOUI AND TOLD HIM TO MEET HIM IN A NEIGHBORHOOD NEAR THE EMBASSY. ACCORDING TO HALFAOUI, AT THIS MEETING GHARIANI WAS VISIBLY NERVOUS, AND SAD THAT BEN JAAFAR'S SENIOR ASSISTANT TOLD HIM THAT WHEN HE ASKED BEN JAAFAR ABOUT THE CASE, BEN JAAFAR SAID YES, HE KNEW THE CASE OF HALFAOUI, "THE INTERPRETER WORKING WITH THE AMERICANS, AND SELLING THE SECRETS OF OUR COUNTRY."

-- JAOUIDA GUGIA, A SENIOR JUDGE AND FRIEND OF HALFAOUI REPORTED TO HALFAOUI THAT BEN JAAFAR HAD TOLD HER THAT HE WAS GOING TO FIND HALFAOUI NOT GUILTY, BUT THAT HE WAS UNDER PRESSURE (NFI).

-- HALFAOUI'S SENSITIVE PORTFOLIO: HALFAOUI PUBLICLY WORKS ON A SENSITIVE HUMAN RIGHTS PORTFOLIO, AND HAS FREQUENT CONTACT WITH OPPOSITION ACTIVISTS WHO ARE OPENLY PERSECUTED BY THE GOT. HE HAS ON NUMEROUS OCCASIONS EXPRESSED CONCERN THAT THE GOT MAY TARGET HIM FOR HIS WORK WITH THE EMBASSY. HE IS OUTSPOKEN ABOUT GOT HUMAN RIGHTS ABUSES AND CRITICAL OF PRESIDENT BEN ALI WITHIN THE WALLS OF THE EMBASSY AND IN INTERNAL E-MAILS. IN DECEMBER, HALFAOUI WAS GIVEN A SUPERIOR

HONOR AWARD FOR "CONTINUOUS OUTSTANDING AND CREATIVE PERFORMANCE OF POLITICAL DUTIES WHICH HAS STRENGTHENED THE U.S.-TUNISIAN RELATIONSHIP, AND PROMOTED DEMOCRATIC REFORM AND RESPECT FOR HUMAN RIGHTS."

--IN ADDITION, THE CONTENT OF AN EDITORIAL IN AL-HADATH NEWSPAPER ON SEPTEMBER 19, WHICH IS OPENLY REFERRED TO AS A MOUTHPIECE FOR THE MOI, WAS CLEARLY DRAWN FROM AN INTERCEPTED TELCON BETWEEN HALFAOUI AND A CIVIL SOCIETY ACTIVIST.

HALFAOUI WAS SETTING UP A MEETING FOR POLOFF, WHO WAS WORKING ON THIS YEARS HUMAN RIGHTS REPORT. BLOCK QUOTE: "WE HAVE NOTICED THAT A CERTAIN NUMBER OF SO-CALLED TUNISIAN OPPOSITION LEADERS AND, IN PARTICULAR, SOME ACTIVISTS FROM INSIGNIFICANT POLITICAL PARTIES AND NGOS WHO ARE, IN REALITY, UNSCRUPULOUS AMBITIOUS INDIVIDUALS DISGUISED UNDER CIVIL SOCIETY ACTIVITIES, DO NOT HESITATE FOR A MOMENT TO RECEIVE INVITATIONS FROM EMBASSIES OF SUPERPOWER COUNTRIES IN TUNIS TO ATTEND FESTIVITIES, RECEPTIONS AND SOMETIMES VOLUNTEER TO HELP EMBASSIES, OFFICIALS PREPARE THEIR INTELLIGENCE REPORTS ABOUT TUNISIAS INTERNAL AFFAIRS. IN FACT, ONE OF THE DISMISSED JUDGES WHEN ASKED BY ONE OF THE EMPLOYEES (HALFAOUI) OF ONE OF THE SUPERPOWER EMBASSY'S OFFICIALS TO MEET WITH HIM IN THE FRAMEWORK OF HIS PREPARATIONS FOR A REPORT ABOUT OUR COUNTRY, DID NOT HESITATE ONE SINGLE MOMENT TO ACCEPT TO MEET WITH HIM. HE SAID HE WOULD WARMLY RECEIVE THE CONCERNED OFFICIAL AT HIS HOUSE AND PROMISED TO INVITE TO THE MEETING SOME LAWYERS WHO ARE ACTIVE MEMBERS OF ONE OF THE NGOS WITH ISLAMIST TENDENCY. THIS DISMISSED JUDGE DID EVEN SUGGEST, IN ADDITION, PROVIDING THIS EMBASSY'S OFFICIAL WITH DOCUMENTS AND INFORMATION NECESSARY FOR THE ELABORATION OF THE REPORT."

-- INVOLVEMENT OF MINISTRY OF JUSTICE CHIEF OF STAFF?: HABIB GHARIANI ALSO TOLD HALFAOUI THAT THE SENIOR ASSISTANT OF BEN JAAFAR SAID THAT THE CHIEF OF STAFF OF THE MINISTRY OF JUSTICE LOTFI DAOUAS CALLED BEN JAAFAR AT HOME AND TOLD BEN JAAFAR TO BRING HIM THE HALFAOUI DOSSIER IMMEDIATELY. FOLLOWING THE CONVERSATION BEN JAAFAR REPORTEDLY LOCKED THE FILE IN A DRAWER, TO PREVENT ANYONE ELSE FROM EXAMINING, AND POTENTIALLY TAKING ACTION ON, THE CASE.

-- INQUIRIES BY UNKNOWN INDIVIDUALS ABOUT THE CASE: THE COURT CLERK INFORMED HALFAOUI'S ATTORNEY'S CLERK THAT, ON JANUARY 24 THE DAY THE SENTENCE OF THE FINAL APPEAL WAS HANDED DOWN, THERE WERE TWO INDIVIDUALS, EVIDENTLY GOT OFFICIALS, WHO CAME TO INQUIRE ABOUT THE STATUS OF THE SENTENCING. THE COURT CLERK CONCLUDED THAT, "THIS MUST BE A HOT CASE."

15. (U) BACKGROUND ON THE PENAL CODE:

-- ARTICLE 304 OF THE PENAL CODE STIPULATES THAT ONE WHO VOLUNTARILY, AND WHO INTENTIONALLY, OTHER THAN BY EXPLOSION OR FIRE, DAMAGES OTHER PEOPLES PROPERTY, WHETHER MOVEABLE OR IMMOVABLE (REAL ESTATE), IS SUBJECT TO IMPRISONMENT UP TO THREE YEARS AND A FINE OF 200 TD. THE ATTEMPT IS ALSO PUNISHABLE.

-- HALFAOUI HAS THE RIGHT TO MAKE A REQUEST BEFORE THE COURT OF CASSATION TO OVERTURN THE COURT OF APPEAL DECISION. THERE ARE THREE POSSIBLE SCENARIOS FOR THE OUTCOME OF THE COURT OF CASSATIONS REVIEW, SHOULD IT AGREE TO HEAR THE CASE: A) THE COURT COULD CANCEL THE SENTENCE, B) THE COURT COULD SEND THE CASE BACK TO THE COURT OF APPEALS TO BE EXAMINED BY ANOTHER CHAMBER WITH DIFFERENT JUDGES, OR C) THE COURT COULD UPHOLD THE COURT OF APPEALS DECISION.

-- THE PROSECUTOR-GENERAL OF THE COURT OF APPEAL HAS THE RIGHT TO STOP THE IMPLEMENTATION OF THE SENTENCE, WHILE THE COURT OF CASSATION EXAMINES THE CASE. IN GENERAL, THIS SUSPENSION OF THE IMPLEMENTATION OF A VERDICT IS ACCORDED TO THOSE WHO DO NOT HAVE A PRIOR CRIMINAL RECORD, DO NOT POSE A THREAT TO SOCIETY, WHO HAVE PERMANENT EMPLOYMENT, AND WHO

HAVE FAMILIES FOR WHOM THEY PROVIDE.

GODEC